

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

TEXAS STATE LULAC; VOTO LATINO  
Plaintiffs,

VS.

BRUCE ELFANT, in his official capacity as  
Travis County Tax Assessor-Collector, et al.,  
Defendants.

and

KEN PAXTON, in his official capacity as  
Attorney General of the State of Texas; et al.,  
Intervenor-Defendants.

§ § § § § § § § § § § § § § §

Civil Action No. 1:21-cv-00546-LY

**DEFENDANT BRUCE ELFANT’S RESPONSE TO  
PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT**

TO THE HONORABLE COURT:

Defendant Bruce Elfant, in his official capacity as the Travis County Tax Assessor-Collector (“Elfant” or “Defendant”), pursuant to Rule 56 of the Federal Rules of Civil Procedure and this Court’s local rules governing motions for summary judgment, respectfully files his response to Plaintiffs’ Motion for Summary Judgment and Memorandum of Law in Support (ECF No. 140) (the “Plaintiffs’ MSJ”).

## I. SUMMARY OF THE PARTIES' CONTENTIONS IN THE PENDING MOTIONS

Plaintiffs seek summary judgment on Counts I, II, and III of their complaint and seek to enjoin enforcement of certain provisions of SB 1111, 87th Leg., Reg. Sess. (Tex. 2021), which amended sections of the Texas Election Code related to an applicant’s “residence” for purpose of registering to vote. *See* Plaintiffs’ MSJ at 1. Plaintiffs assert they are entitled to judgment as a

matter of law under Count I because SB 11111 violates the First and Fourteenth Amendments by restricting Plaintiffs' freedom of expression. Plaintiffs are entitled to judgment as a matter of law under Count II because SB 1111 imposes burdens on the right to vote that cannot be justified by a sufficiently weighty state interest. *Id.* Plaintiffs further assert they are entitled to judgment as a matter of law under Count III, because SB 1111 violates the Twenty-Sixth Amendment to the U.S. Constitution by preventing newly enfranchised, young Texans from effectively exercising their right to vote. *Id.*

Intervenor-Defendant Ken Paxton moves for summary judgment on the grounds that Plaintiffs lack standing to assert such claims and, further, that the challenged statute does not unlawfully burden the right to vote but merely seeks to prevent persons from using an "impossible address" as a residence for purposes of registering to vote. *See* Intervenor-Defendant Ken Paxton's Motion for Summary Judgment (ECF No. 138) (the "Paxton MSJ") at 3.

Intervenor-Defendants Lupe Torres and Terrie Pendley have provided notice that they join in the Paxton MSJ (ECF No. 139).

**A. Claims Against Defendant Elfant.**

Plaintiffs bring suit against Defendant Elfant "for the manner in which he implements the provisions of SB 1111 challenged in this action." Complaint (ECF No. 1) at ¶ 22. Plaintiffs seek summary judgment against Defendant Elfant, and the other Defendants, and requests the Court to enjoin enforcement of SB 1111.

Defendant Elfant denies that he has violated any state or federal laws or rights secured under the United States Constitution in conducting his activities as the Travis County Tax Assessor-Collector. *See* Defendant Bruce Elfant's Original Answer to Plaintiffs' Complaint (ECF No. 52) at ¶¶ 22, 55, 58-59, 62-64, 69-73, 78.

**II.  
RESPONSE**

Defendant Elfant takes no position on the competing claims and positions advanced in the pending summary judgment motions. Defendant's position has always been that his office will comply with federal and state laws governing voter registration, including the law as determined by this Court or on appellate review. Defendant Elfant believes that that the competing summary judgment motions sufficiently present the legal issues that the Court must resolve. Accordingly, Defendant Elfant respectfully declines to proffer his own brief, as it would not assist the Court in its task of determining the pure issues of law at issue in Plaintiff's summary judgment motion or in the competing summary judgment motions, but would instead serve only to increase the costs of litigation to all parties.

Respectfully submitted,

DELIA GARZA  
County Attorney, Travis County  
P. O. Box 1748  
Austin, TX 78767  
Telephone: (512) 854-9415  
Facsimile: (512) 854-4808

By: /s/ Cynthia W. Veidt  
SHERINE E. THOMAS  
State Bar No. 00794734  
[Sherine.thomas@traviscountytexas.gov](mailto:Sherine.thomas@traviscountytexas.gov)  
LESLIE W. DIPPEL  
State Bar No. 00796472  
[leslie.dippel@traviscountytexas.gov](mailto:leslie.dippel@traviscountytexas.gov)  
CYNTHIA W. VEIDT  
State Bar No. 24028092  
[cynthia.veidt@traviscountytexas.gov](mailto:cynthia.veidt@traviscountytexas.gov)

ATTORNEYS FOR DEFENDANT  
BRUCE ELFANT

### CERTIFICATE OF SERVICE

I, the undersigned counsel, hereby certify that on May 23, 2022, I caused to be electronically transmitted the attached document to the Clerk of the Court for the United States District Court for the Western District of Texas using the CM/ECF electronic case filing system of the Court.

Christopher Dodge  
[cdodge@elias.law](mailto:cdodge@elias.law)  
Graham White  
[gwhite@elias.law](mailto:gwhite@elias.law)  
Joseph N. Posimato  
[jposimato@elias.law](mailto:jposimato@elias.law)  
Meaghan E. Mixon  
[mmixon@elias.law](mailto:mmixon@elias.law)  
Uzoma N. Nkwonta  
[unkwonta@elias.law](mailto:unkwonta@elias.law)  
Melinda Johnson  
[mjohnson@elias.law](mailto:mjohnson@elias.law)  
Michael B. Jones  
[mjones@elias.com](mailto:mjones@elias.com)  
Elias Law Group  
10 G Street NE  
Washington, DC 20002  
*Attorneys for Plaintiffs*

Luis Roberto Vera, Jr.  
[lrqlaw@sbcglobal.net](mailto:lrqlaw@sbcglobal.net)  
Law Offices of Luis Roberto Vera & Assoc,  
P.C.  
111 Soledad, Suite 1325  
San Antonio, TX 78205-2260  
*Attorney for Plaintiffs*

Barbara S. Nicholas  
[Barbara.Nicholas@dallascounty.org](mailto:Barbara.Nicholas@dallascounty.org)  
Ben L Stool  
[ben.stool@dallascounty.org](mailto:ben.stool@dallascounty.org)  
Dallas District Attorney's Office  
500 Elm Street, Suite 6300  
Dallas, TX 75202  
*Attorneys for Defendant Michael Scarpello*

Jonathan Patrick Hawley  
[jhawley@elias.law](mailto:jhawley@elias.law)  
Elias Law Group LLP  
1700 Seventh Avenue, Suite 2100  
Seattle, WA 98101  
*Attorney for Plaintiffs*

John Russell Hardin  
[johnhardin@perkinscoie.com](mailto:johnhardin@perkinscoie.com)  
Perkins Coie, LLP  
500 N. Akard Street, Suite 3300  
Dallas, TX 75201  
*Attorney for Plaintiffs*

Larry L. Roberson  
[lroberson@bexar.org](mailto:lroberson@bexar.org)  
Lisa V. Cubriel  
[Lisa.cubriel@bexar.org](mailto:Lisa.cubriel@bexar.org)  
Bexar County District Attorney  
101 W. Nueva, 7th Floor  
San Antonio, TX 78205  
*Attorney for Defendant Jacquelyn Callanen*

Christina Marie Beeler  
[christina.beeler@cao.hctx.net](mailto:christina.beeler@cao.hctx.net)  
Sameer Singh Birring  
[sameer.birring@cao.hctx.net](mailto:sameer.birring@cao.hctx.net)  
Tiffany Sue Bingham  
[tiffany.bingham@cao.hctx.net](mailto:tiffany.bingham@cao.hctx.net)  
Jonathan Gabriel Chaim Fombonne  
[jonathan.fombonne@cao.hctx.net](mailto:jonathan.fombonne@cao.hctx.net)  
Harris County Attorney's Office  
1019 Congress, 15th Floor  
Houston, TX 77002  
*Attorney for Defendant Isabel Longoria*

Eric A. Hudson  
[eric.hudson@oag.texas.gov](mailto:eric.hudson@oag.texas.gov)  
Kathleen Hunker  
[kathleen.Hunker@oag.texas.gov](mailto:kathleen.Hunker@oag.texas.gov)  
Office of Attorney General  
P.O. Box 12548 (MC-009)  
Austin, TX 78711-2548  
*Attorneys for Intervenor-Defendant Ken Paxton*

Orion Armon  
[oarmon@cooley.com](mailto:oarmon@cooley.com)  
Cooley LLP  
1144 15th Street, Suite 2300  
Denver, CO 80206  
*Attorney for Defendant Lisa Wise*

Marina Eisner  
[marina@statesuniteddemocracy.org](mailto:marina@statesuniteddemocracy.org)  
States United Democracy Center  
1101 17th Street Nw  
Washington, DC 20036  
*Attorneys for Defendant Lisa Wise*

Beatriz Mejia  
[mejiab@cooley.com](mailto:mejiab@cooley.com)  
Danielle C. Pierre  
Kathleen Hartnett  
[khartnett@cooley.com](mailto:khartnett@cooley.com)  
Kelsey Spector  
[kspector@cooley.com](mailto:kspector@cooley.com)  
Sharon Song  
[song@cooley.com](mailto:song@cooley.com)  
Cooley LLP  
3 Embarcadero Center, 20th Floor  
San Francisco, CA 94111  
*Attorneys for Defendant Lisa Wise*

Jo Anne Bernal  
[joanne.bernal@epcounty.com](mailto:joanne.bernal@epcounty.com)  
Office of the County Attorney  
El Paso County Bldg.  
500 E. San Antonio St., Rm. 203  
El Paso, TX 79901-2419  
*Attorney for Defendant Lisa Wise*

John Edward Untereker  
[juntereker@epcounty.com](mailto:juntereker@epcounty.com)  
El Paso County Attorney's Office  
500 E. San Antonio  
Rm. 503  
El Paso, TX 79902  
*Attorney for Defendant Lisa Wise*

Christine Sun  
[christine@statesuniteddemocracy.org](mailto:christine@statesuniteddemocracy.org)  
Ranjana Natarajan  
[ranjana@statesuniteddemocracy.org](mailto:ranjana@statesuniteddemocracy.org)  
States United Democracy Center  
3749 Buchanan St. No. 475165  
San Francisco, CA 94147  
*Attorneys for Defendant Lisa Wise*  
Neal Stuart Manne  
[nmanne@susmangodfrey.com](mailto:nmanne@susmangodfrey.com)  
Susman Godfrey L.L.P.  
1000 Louisiana  
Suite 5100  
Houston, TX 77002-5096  
*Attorneys for Defendant Lisa Wise*

///

Josephine L. Ramirez  
[josephine.ramirez@da.co.hidalgo.tx.us](mailto:josephine.ramirez@da.co.hidalgo.tx.us)  
Leigh Ann Tognetti  
[leigh.tognetti@da.co.hidalgo.tx.us](mailto:leigh.tognetti@da.co.hidalgo.tx.us)  
Hidalgo County District Attorney's Office  
100 E. Cano, First Floor  
Edinburg, TX 78539  
*Attorneys for Defendant Ramon*

Chance D. Weldon  
[cweldon@texaspolicy.com](mailto:cweldon@texaspolicy.com)  
Robert E Henneke  
[rhenneke@texaspolicy.com](mailto:rhenneke@texaspolicy.com)  
Munera Al-Fuhaid  
[mal-fuhaid@texaspolicy.com](mailto:mal-fuhaid@texaspolicy.com)  
Autumn Hamit Patterson  
[apatterson@texaspolicy.com](mailto:apatterson@texaspolicy.com)  
Texas Public Policy Foundation  
901 Congress Avenue  
Austin, TX 78701  
*Attorneys for Intervenor-Defendants Lupe  
Torres & Terrie Pendley*

/s/ Cynthia W. Veidt  
\_\_\_\_\_  
CYNTHIA W. VEIDT  
Assistant County Attorney